

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REQUEST FOR CONFIDENTIAL TREATMENT OF)
INFORMATION FILED WITH BELLSOUTH TELE-) CASE NO. 95-565
COMMUNICATIONS, INC.'S PROPOSED)
ADDITIONAL LINE PROMOTION)

O R D E R

This matter arising upon the motion of BellSouth Telecommunications, Inc. ("BellSouth"), filed February 16, 1996, for reconsideration of the Commission's Order dated January 29, 1996, denying confidential protection for the cost information filed by BellSouth in support of its proposed additional business line promotion, and it appearing to this Commission as follows:

On December 18, 1995, BellSouth petitioned the Commission to protect as confidential cost information that had been filed in support of its planned promotion to encourage business customers to order additional business lines and backup lines. These lines are offered as part of the Business Basic Exchange Service, which BellSouth provides as a local exchange company. As grounds for its petition, BellSouth alleged that the information was entitled to protection under the applicable provisions of KRS 61.878(1), because disclosure of the information was likely to cause BellSouth competitive injury. While the petition identified competitive access providers, interexchange carriers, and cable television carriers as potential competitors for the services included in the plan promotion, only cellular carriers were identified as current competitors for those services.

By Order entered January 29, 1996, the Commission reiterated its long-standing position that a party claiming confidential protection on the grounds of competitive injury must demonstrate actual competition and a likelihood of competitive injury if the information is publicly disclosed. Because competitive access providers, interexchange carriers, and cable television carriers are not in active competition with BellSouth for the services included in the promotion, but according to the petition offer only a potential competitive threat, they offer no basis to protect the information. With respect to the use of the information by cellular carriers, while cellular carriers currently offer services similar to those offered by BellSouth, the Commission found that the cellular services are offered to a highly specialized and restricted market and present no active competitive threat to BellSouth. Therefore, the petition did not demonstrate that disclosure of the information would benefit actual competitors and the petition was denied.

BellSouth, in its motion for reconsideration, maintains that the January 29, 1996 Order ignores both the competition for its business services currently provided by competitive access providers and the potential effect of the Commission's investigation into local competition in Administrative Case No. 355.¹ BellSouth also points out that the Telecommunications Act of

¹ Administrative Case No. 355, An Inquiry Into Local Competition, Universal Service, and the Non-Traffic Sensitive Access Rate.

1996 has been passed by Congress since entry of the Commission's Order.

BellSouth's argument that the Order should be reconsidered in light of new statutory requirements is well taken. Paragraph c(1) of KRS 61.878(1), pursuant to which BellSouth seeks the exemption, applies to information whose disclosure "would permit an unfair commercial advantage to competitors." The motion for reconsideration demonstrates that there is not only competition for the additional business line services offered by BellSouth; there is a substantial likelihood that, pursuant to federal law, BellSouth's business exchange service will be subject to full competition before the year is over. Louisville Lightwave and AT&T Communications of the South Central States, Inc. have, in fact, filed with the Commission applications seeking authorization to provide local exchange service in Kentucky.² Consequently, disclosure of the underlying cost of these services would permit an unfair commercial advantage to BellSouth's competitors, and the information is entitled to protection.

² Case No. 95-047, The Application of Louisville Lightwave for a Certificate of Public Convenience and Necessity to Construct Facilities and Provide Intrastate Telecommunications Services. See Petition of Louisville Lightwave for Expedited Amendment of its Certificate of Public Convenience and Necessity to Provide Non-Switched Telecommunications Services, filed February 16, 1996 (pursuant to the Telecommunications Act of 1996, requesting removal of the restriction on its carriage of traffic within an exchange); Case No. 96-075, Application of AT&T Communications of the South Central States, Inc. for an Amendment to Its Certificate of Convenience and Necessity so as to Authorize it to Offer and Provide Telecommunication Services Throughout Kentucky.

This Commission being otherwise sufficiently advised,

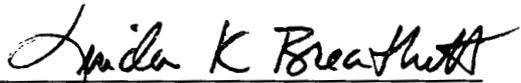
IT IS ORDERED that:

1. The motion for reconsideration of the January 29, 1996 Order is granted.

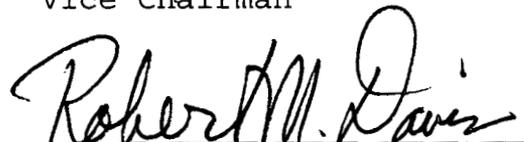
2. The cost information filed in support of BellSouth's planned promotion to encourage business customers to order additional business lines and backup lines, which BellSouth has petitioned to be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 6th day of March, 1996.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director